



STATE OF MICHIGAN  
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DEPARTMENT OF STATE  
LANSING

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**Help America Vote Act of 2002  
(H.R. 3295/P.L. #107-252)**

**Handling “Missing” Registration Records at the Polls**

Part I of this report details the procedures which are currently followed in instances where a voter who appears in the polls to vote cannot be found on the precinct’s Qualified Voter File list.

Part II of this report details the procedures which must be followed under the Help America Vote Act of 2002 (HAVA) in instances where a voter who appears in the polls to vote cannot be found on the precinct’s Qualified Voter File list.

**Part I: Current Procedure (“Affidavit Ballot”)**

In an instance where 1.) a voter who appears in the polls to vote cannot be found on the precinct’s QVF list and 2.) the voter is unable to demonstrate his or her registration status by producing a validated voter registration receipt, the voter can vote if he or she:

- 1.) signs an “Affidavit of Voter Registration” affirming that he or she submitted a voter registration application through a Secretary of State branch office, a designated voter registration agency, the county clerk or the mail on or before the “close of registration” for the election at hand;
- 2.) provides identification to confirm his or her identity and residence; and
- 3.) completes and submits a new voter registration application.

Such voters are issued a paper, punch card or optical scan ballot. The election inspectors write the number appearing on the voter’s ballot in pencil on the back of the ballot. If a punch card ballot is used, the election inspector writes the ballot number on the secrecy envelope. After writing the ballot number on the ballot, the election inspector conceals the number with tape and/or a slip of paper as directed by the election official administering the election.

After the ballot has been prepared in the above manner, the elector votes the ballot in a voting station. The ballot is then counted under routine procedure. The “Affidavit of Voter Registration” completed by the voter is forwarded to the local clerk’s office immediately after the election. Upon the receipt of the form, the clerk enters the voter in the Qualified Voter File system.

It merits emphasis that in all cases, the votes cast on a ballot issued under the above procedure are counted. If an interested party wishes to dispute the qualifications of a voter who cast a ballot under the above procedure, he or she must seek redress through the courts. (If the retrieval of the ballot is ordered by the courts, the ballot number concealed on the ballot is used to identify the ballot.) Unless a court order is obtained, a ballot cast under the above procedure cannot be retrieved for inspection or invalidated for any reason. It merits further note that if a recount is conducted, a ballot cast under the above procedure is recounted under the same procedures employed to recount any other ballots cast in the precinct; the fact that the ballot was cast under the above procedure is *not* a matter which can be questioned or disputed under the recount proceedings.

<b>Part II: Requirements Provided Under the Help America Vote Act (“Provisional Ballot”)</b>
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In an instance where 1.) a voter who appears in the polls to vote cannot be found on the precinct’s QVF list and 2.) the voter is unable to demonstrate his or her registration status by producing a validated voter registration receipt, the voter can vote if he or she:

- 1.) asserts that he or she is a “registered voter in the jurisdiction”; and
- 2.) executes a “written affirmation” attesting that he or she is a “registered voter in the jurisdiction” and is eligible to vote in the election.

Such voters are issued a paper, punch card or optical scan ballot. The voter then votes the ballot in a voting station. After the voter returns the ballot, it is secured in an envelope for later disposition. Here, it merits observation that a voter who executes the above referenced “written affirmation” is eligible to receive and vote a “provisional ballot” *even in an instance where the election official administering the election “asserts that the individual is not eligible to vote.”*

After the polls close, any ballots issued and voted under the above procedure are forwarded to the local election official for verification. If the election official determines that the individual is eligible to vote, the ballot is counted; if, on the other hand, the election official determines that the individual is *not* eligible to vote, the ballot is *not* counted.

HAVA provides the following stipulation:

“The appropriate State or local election official shall establish a free access system (such as a toll-free telephone number or an internet website) that any individual who casts a provisional ballot may access to discover whether the vote

of that individual was counted and, if the vote was not counted, the reason that the vote was not counted.”

HAVA further stipulates that at the time that an individual casts a “provisional ballot,” the election inspectors must give the individual written instructions for accessing the informational system.

<b>Attachments</b>
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- A. Provision of Michigan election law which governs the procedures for issuing “affidavit ballots.”
- B. Provisions of the Help America Vote Act of 2002 which govern the procedures for issuing “provisional ballots.”